



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SJN
Docket No: 07004-11
28 July 2011

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: [REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 with attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, an active duty enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting that the nonjudicial punishment (NJP) he received on 16 April 2009 be removed from his Official Military Personnel File (OMPF).

2. The Board, consisting of Mr. Garst, Mr. Sproul, and Ms. Zivnuská, reviewed Petitioner's allegations of error and injustice on 26 July 2011 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. On 16 April 2009 Petitioner received NJP for drunken or reckless operation of a vehicle. He was awarded a forfeiture of pay and a reduction in paygrade from E-4 to E-3.

c. In his application, Petitioner submits a letter from the Commanding Officer, Center for Naval Aviation Technical Training Marine Unit New River dated 18 June 2009 that set aside the 16 April 2009 NJP.

d. An advisory opinion dated 18 July 2011, from the Headquarters Marine Corps states, in part, that Petitioner's NJP was properly set aside by the commander who imposed it, and that all property, privileges, and rights affected by it be restored.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the supporting letter from Petitioner's commanding officer and the advisory opinion, the Board concludes that Petitioner's request warrants favorable action in the form of relief.

After careful and conscientious consideration of the entire record, the Board concludes that Petitioner's NJP of 16 April 2009 should be removed from his OMPF.

RECOMMENDATION:

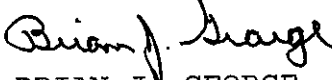
a. That Petitioner's Unit Punishment Book form (NAVMC 10132) documenting his NJP of 16 April 2009 be removed from his OMPF, along with all associated documentation relating to it.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

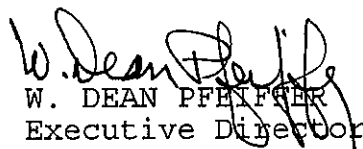
c. That any material direct to be removed from Petitioner's naval record be returned to this Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


BRIAN J. GEORGE
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director